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REMARKS

This Amendment is submitted in full response to the Office Action issued on June 21, 2004, wherein the Examiner has rejected all of the pending claims, namely claims 2-37, based upon a single reference to Mueller ("The Surgical Armamentarium"). Reconsideration is hereby requested.

With regard to the Mueller reference, which appears to be a catalog of surgical implements, the Examiner has pointed to a specific scalpel blade and handle as being anticipatory, reciting that the Mueller scalpel is "inherently capable of being used to cut the cornea". The Applicant respectfully urges, however, that this reference cannot anticipate the Applicant's claimed invention, as the field of art associated with scalpels has no bearing or structural similarity to that of a precision surgical implement for cutting an eye, namely a microkeratome. In particular, and unlike the field of art associated with a scalpel, wherein the structure is tailored to permit a blade to be manipulated free hand by a user in an unconstrained fashion, the field of art associated with ocular surgery is structurally very different and very exacting, with advanced surgical equipment being

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implemented to make very precise, controlled and reproducible incisions and corrections in the eye. To this end, the Applicant's claimed invention is specifically for a Microkeratome Blade Assembly to be utilized in such precision surgical procedures which, in view of the language of the pending claims themselves, must be viewed as a distinguishing limitation to the claims of the Applicant's invention. Indeed, when construing the claims of the Applicant's prior, related, issued patent, the U.S. District Courts for both the Eastern District of Pennsylvania and the Central District of California, in separate rulings, did precisely that, namely construing the claim language "Microkeratome Blade Assembly" as a limitation. Accordingly, it is urged that a person of ordinary skill in the art associated with Microkeratomes would not look to, nor find in a conventional scalpel assembly, any motivation or suggestion for the development of a precision Microkeratome Blade Assembly for use within a Microkeratome Cutting Head, as claimed by the Applicant.

In addition to the above basis for rejection, the Examiner has also requested a clarification to the specification in order to better identify the present

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Application's claim of priority, and has set forth a rejection based upon the judicially created doctrine of obviousness type double patenting. As such, an appropriate amendment to the specification has been provided, and a completed Terminal Disclaimer is included herewith.

Finally, the Examiner has rejected claims 2-7 and 11 under 35 U.S.C. 112, second paragraph. In particular, the Examiner has identified certain claim elements within claims 2 and 4 which lack antecedent basis, and has suggested that a segment of claim 2 is "confusing or inaccurate". With regard to the lack of antecedent basis, appropriate amendments have been provided and this basis for refusal is now believed to be overcome. As for the Examiner's remaining objection that portions of claim 2 are confusing or inaccurate, the Applicant respectfully disagrees. Specifically, the Examiner has identified the "flanged portion" as the flange that engages an underside of the blade, distinguishing that element from the "narrow neck" that extends from the underside of the blade holder. The Applicant points out, however, that both the "narrow neck", identified and characterized as such by the Examiner, and the flange, are part of the "flanged

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portion", and that accordingly, the "flanged portion" does indeed engage the edge. In the embodiment identified by the Examiner it is at least the "narrow neck" portion of the "flanged portion" that engages the edge. As such, it is believed that the requirements of 35 U.S.C. 112, second paragraph have been met.

Accordingly, based upon the above remarks and the contents of the references of record, the Examiner is respectfully requested to reconsider his decision. It is believed that the present Application is in condition for immediate allowance, and the same is solicited.

The Commissioner is hereby authorized to charge all additional filing fees that may be required by the filing of this paper to our **Deposit Account No. 13-1227**.

Respectfully submitted,
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Dated: 11/22/04